



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,462	09/30/2003	Andrew Jarabek	PAT 2513-2 US	5556

26123 7590 04/01/2010
BORDEN LADNER GERVAIS LLP
Anne Kinsman
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA, ON K1P 1J9
CANADA

EXAMINER

HAN, CLEMENCE S

ART UNIT	PAPER NUMBER
----------	--------------

2464

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

04/01/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ipinfo@blgcanada.com

Office Action Summary	Application No. 10/675,462	Applicant(s) JARABEK ET AL.	
	Examiner CLEMENCE HAN	Art Unit 2464	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-8, 10-14, 17-22 and 24-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-8, 10-14, 17-22 and 24-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2-8, 10-14, 17-22 and 24-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Regarding claim 7, the phrase "switching a predetermined number of entries together" in line 5 renders the claim indefinite because it is unclear what is being switched. The examiner understood it is as "switching a predetermined number of virtual tributary connection entries together" for the purpose of examination base on the instant specification page 4 line 4-5 wherein "the STS signal as the aggregation of multiple VT connection", page 5 line 7-8 wherein "there are at least 29 entries per an STS-1 high level container" and page 5 line 15 wherein "Thus, the cross-connect switches the 29 entries of the STS-1 together".

4. Regarding claim 18, the phrase "switch a predetermined number of entries together" in line 8 renders the claim indefinite because it is unclear what is being switched. The examiner understood it is as "switch a predetermined number of virtual tributary connection entries together" for the purpose of examination base on the instant specification page 4 line 4-5 wherein "the STS signal as the aggregation of multiple VT connection", page 5 line 7-8 wherein "there are at least 29 entries per an STS-1 high

Art Unit: 2464

level container” and page 5 line 15 wherein “Thus, the cross-connect switches the 29 entries of the STS-1 together”.

5. Regarding claim 24, the phrase "to switch a predetermined number of entries together" in line 6 renders the claim indefinite because it is unclear what is being switched. The examiner understood it is as “to switch a predetermined number of virtual tributary connection entries together” for the purpose of examination base on the instant specification page 4 line 4-5 wherein “the STS signal as the aggregation of multiple VT connection”, page 5 line 7-8 wherein “there are at least 29 entries per an STS-1 high level container” and page 5 line 15 wherein “Thus, the cross-connect switches the 29 entries of the STS-1 together”.

6. Claims 7, 18 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: The steps following checking the second control bit. The claim recites the instant invention as shown in the Figure 4. It has checking first control bit (step 72), switching based on the first control bit (step 74, 76) and checking second control bit (step 78). However, it is silent regarding to what happens after checking the second control bit (step 80 and 82). It is essential step because without it there is no reason to perform the step of checking the second control bit.

Response to Arguments

7. Applicant's arguments with respect to claims 2-8, 10-14, 17-22 and 24-27 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

8. Claims 7, 18 and 24 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

9. Claims 2-6, 8, 10-14, 17, 19-22 and 25-27 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CLEMENCE HAN whose telephone number is (571) 272-3158. The examiner can normally be reached on Monday-Friday 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on (571) 272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/675,462

Page 5

Art Unit: 2464

/Ricky Ngo/

Supervisory Patent Examiner, Art Unit 2464

/C. H./

Examiner, Art Unit 2464